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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

* * * * * * * * * * * * * * * * *
*
J.D. ISAACS *
*
v. * 12-CV-40-JL
* March 30, 2012
* 11:30 a.m.
*
DARTMOUTH HITCHCOCK MEDICAL *
CENTER, ET AL *
*
* * * * * * * * * * * * * * * * *

TRANSCRIPT OF TELEPHONE CONFERENCE
BEFORE THE HONORABLE JOSEPH N. LAPLANTE

APPEARANCES:

For the Plaintiff: Jeffrey D. Isaacs
Pro Se

For the Defendant: Edward M. Kaplan, Esq.
Sullivan & Hollis

Kathleen C. Peahl, Esq.
Wadleigh, Starr & Peters, PLLC

Court Reporter: Susan M. Bateman, LCR, RPR, CRR
Official Court Reporter
United States District Court
55 Pleasant Street
Concord, NH 03301
(603) 225-1453

1 P R O C E E D I N G S

2 THE CLERK: We have for consideration this
3 morning a telephone conference in civil action
4 12-CV-40-JL, J.D. Isaacs versus Dartmouth Hitchcock
5 Medical Center, et al.

6 We do have a court reporter present today,
7 and I would ask, starting with Mr. Isaacs, if you
8 would please identify yourselves for the record and
9 before speaking each time please identify yourselves.

10 Thank you.

11 DR. ISAACS: Yes. I guess I'm filed as
12 plaintiff, Dr. J.D. Isaacs, your Honor, and I'm
13 present.

14 MS. PEAHL: Attorney Kathleen Peahl from
15 Wadleigh, Starr & Peters representing Dartmouth
16 College and Dr. Finn, Dr. Kim and Dr. Noordsy.

17 MR. KAPLAN: Ed Kaplan from Sulloway & Hollis
18 representing the Medical Center and Mary Hitchcock
19 Memorial Hospital.

20 THE COURT: Good morning, everyone.

21 MR. KAPLAN: Good morning, Judge.

22 DR. ISAACS: Good morning.

23 MS. PEAHL: Good morning.

24 THE COURT: With me in chambers, as you just
25 heard, is Deb Eastman, deputy clerk, and I also have a

1 law student with me here in chambers, Neal Smith,
2 who's working in my chambers this semester from UNH
3 Law School.

4 I apologize for the formality of having the
5 clerk call the case on a conference call and all of
6 that. Usually Mr. -- or Dr. Isaacs, usually when I
7 have a telephone conference in a case like this it's
8 pretty informal.

9 DR. ISAACS: Okay.

10 THE COURT: But you are appearing pro se.
11 The reason that's usually pretty informal is that I
12 know that if I do it with lawyers and something
13 happens in the phone call that they don't like, or
14 that makes them uncomfortable, they'll file something
15 in court to try to preserve the record. And I wanted
16 to make sure, since you don't have a lawyer, that
17 there's a record here to protect you in the event you
18 wanted to raise any type of issue or request any type
19 of relief based on this discussion today.

20 The bottom line is I'm just trying to make
21 sure you have a record, okay?

22 DR. ISAACS: I appreciate that, your Honor.

23 THE COURT: Okay. Now, I was going to talk
24 about these what I thought were sort of moot motions
25 regarding service of process, or if not moot at least

1 easily resolvable, but the deputy clerk just told me
2 that we've got an amended complaint filed now.

3 DR. ISAACS: Yeah.

4 THE COURT: Which is sort of a curve ball.

5 Can somebody tell me what's going on?

6 MR. KAPLAN: Well, your Honor, this is
7 Kaplan. I'll speak briefly. I do think the issue is
8 easily resolvable, and I'll just put it in my
9 perspective for a moment.

10 THE COURT: Sure.

11 MR. KAPLAN: The initial challenge was
12 whether or not I personally was properly served in
13 connection with Dr. Isaacs' initial complaint.

14 THE COURT: Right.

15 MR. KAPLAN: It is true that he had somebody
16 appear, a process server. I told him I didn't have
17 the authority to accept service. He left it anyway,
18 and we ended up -- I filed a motion, and we ended up
19 fighting about that issue.

20 As it turns out, as soon as the complaint was
21 provided to me by the process server I contacted the
22 individuals and determined whether or not I had
23 authority to accept service going forward, because now
24 I knew there was a complaint, and I received
25 authority. And as a result, I sent Dr. Isaacs the

1 waiver and said, you know, if you sign this we're all
2 done and we don't have to worry about service.

3 That has never been done. So up until the
4 time of the amended complaint my policy here was going
5 to be to simply say to you, that on behalf of the
6 defendants I represent I can accept service, let's get
7 beyond this and get on to the case. And I think,
8 frankly, Kate would tell you that she can accept
9 service for hers and we wouldn't have to fight about
10 it.

11 THE COURT: So you pretty much anticipated my
12 approach to the call.

13 MR. KAPLAN: Yeah. And so I'll tell you, my
14 only objective right now is two things, and I'll get
15 to the end of my objective because it's really simple.

16 I would like for you, the Court, to say to
17 us, okay, as of X date I'm declaring service
18 effective. You guys have until whatever date to
19 provide your response to -- and I was going to say the
20 complaint, but now I don't know whether that's the
21 complaint or the amended complaint, but either way, it
22 seems to me, that's the end of it, and then we can get
23 on to dealing with the case. That's what I was hoping
24 we would accomplish.

25 THE COURT: We had the same hope.

1 MR. KAPLAN: Good.

2 THE COURT: My only question about everything
3 that you said was this. You made reference to you
4 contacted the individuals. Are you talking about
5 Attorney Peahl's clients?

6 MR. KAPLAN: Yeah -- well, no.

7 Additionally -- the confusion here additionally,
8 Judge, is that in many of these cases I typically
9 represent the institution and the physicians that
10 might be involved. In this particular case I do not.
11 And because of an anomaly in connection with the way
12 psychiatrists are hired -- they are not hired by the
13 medical center or the clinic. They're hired by the
14 Dartmouth Medical School. So I would only accept
15 service and appear and answer on behalf of the medical
16 center and the hospital, and I think -- Kathy,
17 everybody else is yours, right?

18 MS. PEAHL: That's correct. And just to
19 clarify with respect to the amended complaint, by the
20 time that was filed of course I had already done
21 exactly what Attorney Kaplan did with respect to the
22 initial complaint. I had offered to waive service and
23 had sent the plaintiff a completed waiver and said,
24 you know, I've signed this. If you file this, I've
25 accepted service at that point for the college.

1 With respect to the amended complaint, we now
2 have three individuals identified who, as Attorney
3 Kaplan correctly points out, are all employed by
4 Dartmouth College. So I would be entering an
5 appearance for all three of them.

6 In the earlier days of this week when the
7 amended complaint was first filed, I had communication
8 with the plaintiff. I had offered exactly the same
9 thing. I would waive service. If he sent me the
10 form, I would fill it out, he could file it, and it
11 would not be necessary to go through the formal
12 process of serving the individual defendants.

13 At that point, actually, I think I was
14 talking only about Dr. Kim and Dr. Finn, not realizing
15 that Dr. Noordsy was also an employee of the college.

16 As it turned out, the plaintiff initially
17 accepted my offer to waive service. He then changed
18 his mind and went ahead. He attempted to make service
19 on all three of the individuals.

20 I'll point out that the service on Drs. Finn
21 and Noordsy was made to Dartmouth Hitchcock Medical
22 Center's Risk Management Office, which Dartmouth
23 Hitchcock Medical Center and their Risk Management
24 Office did not have authority to accept service for
25 Dr. Finn or Dr. Noordsy.

1 So there's potentially deficiency in the
2 service that was made, but as Ed offered, I would do
3 the same thing. We want to accept service, get a date
4 for the answer to be due, and move on with the case.

5 THE COURT: Okay. I understand. All right.

6 And I'm not quibbling with anybody's approach to this.
7 I want to get to the same point you do.

8 Dr. Isaacs, what you're being basically told
9 here is that everyone is prepared to agree that
10 they've been served. All defendants through their
11 counsel have agreed that they've been served and that
12 these motions -- I'm going to basically declare all
13 these motions moot, that they don't matter anymore, or
14 withdrawn or whatever we want to call them, so
15 basically the lawsuit can proceed from here.

16 I can't imagine why you wouldn't be satisfied
17 with that. Are you okay with that?

18 DR. ISAACS: Well, your Honor, I wish I could
19 be satisfied with that. I'm not sure if you read the
20 amended complaint that I filed just a couple days ago.

21 THE COURT: No. I didn't even know it had
22 been filed.

23 DR. ISAACS: Right. Unfortunately, part of
24 my central complaint now is that the defendants have
25 deprived me of due process, stalled on matters,

1 withheld evidence.

2 THE COURT: Yeah, but they're saying that
3 those allegations in your amended complaint -- they
4 are agreeing that they've been served with those.

5 DR. ISAACS: Well, but I'm saying that my
6 case at Dartmouth revolves around denial of due
7 process for months, and I actually considered attempts
8 that were made to withhold critical evidence to be a
9 continuation of the improper behavior that took place
10 at Dartmouth Psychiatry.

11 They knew how I was traumatized by prior
12 litigation, and they steered me right back into the
13 same situation. I can't believe I'm in federal court
14 for the second time in my life, and all of the sudden
15 defendants felt -- believed they were immediately
16 proclaimed.

17 THE COURT: So what are you saying? Are you
18 saying to me you would prefer that they don't accept
19 service and you would like to try to serve them all
20 over again?

21 DR. ISAACS: I guess I'm of the belief that
22 they actually were served correctly and that they have
23 delayed things, shielded Dartmouth College, and
24 moreover defendant Kim, from a developing controversy
25 of transitioning duties at the World Bank. I believe

1 they've evaded the summons. I believe they've
2 misstated things under Federal Rule 11 for an
3 attorney, and even evading a summons -- I have a note
4 from a process server who knew nothing about this case
5 that I ever knew, never spoke with him more than two
6 minutes, stating that he believes that Dr. Kim was at
7 home, despite contrary claims by one Vivienne
8 Barbadoro.

9 THE COURT: Look, slow down. That's all
10 great and you can allege all of that, but the question
11 is -- I guess what I'm saying is, what difference does
12 it make if you think they were served properly? We're
13 prepared to rule that they've been served and proceed.

14 DR. ISAACS: I guess I consider it as
15 evidence in my case.

16 THE COURT: Well, sure. That's fine. You
17 can present evidence in your case. We're just talking
18 about whether you have a lawsuit yet, and I'm prepared
19 to rule as of right now that, yes, you do, and that
20 everybody you want to sue is now properly before the
21 Court at least with respect to their service of
22 process.

23 DR. ISAACS: To the extent that you are -- I
24 have to accept your decision that this issue can be
25 easily corrected with regards to summons, I don't

1 waive my right to pursue in discovery later on what
2 went on behind the scenes during this process.

3 So I guess I'm agreeing with you but not
4 waiving certain rights.

5 THE COURT: Understood. Understood.

6 DR. ISAACS: I believe evidence is being
7 withheld, so I guess I do want this lawsuit to be
8 initiated so we can move quickly forward with getting
9 the evidence that's being withheld and/or destroyed.

10 THE COURT: All right. Now, let me ask you
11 this. I need to ask you this.

12 DR. ISAACS: Sure.

13 THE COURT: You don't have counsel.

14 DR. ISAACS: That's correct.

15 THE COURT: I mean, is that by choice, or
16 does it reflect an inability to get counsel? In other
17 words, you tried to hire somebody but no one will take
18 the case, or you're not in a position to --

19 DR. ISAACS: No. I have not shopped around
20 or spoken to many lawyers. I did speak with an
21 attorney that's representing a plaintiff against
22 Dartmouth in a similar matter. He is forwarding me
23 right now his agreement. I believe it will be out of
24 my cost range. So I guess the simple answer to your
25 question is, not fully by choice.

1 THE COURT: I see.

2 DR. ISAACS: So given the urgency of this, I
3 did feel I could move quicker by filing myself things
4 as opposed to shopping around for attorneys.

5 THE COURT: Sure.

6 DR. ISAACS: It's somewhat by choice
7 initially, but going forward I cannot afford an
8 attorney because educational cases usually they're not
9 done on contingencies. I believe that answers your
10 question.

11 THE COURT: All right. Okay. Look, it's
12 your right to go pro se, if you want to. I mean, I
13 think it's going to be a far more difficult endeavor
14 for you to do that. I think as this service of
15 process sort of episode demonstrates, the fact is you
16 did not effect proper service initially, but that's
17 all moot now because they've accepted service and I'm
18 going to rule that they've been served.

19 I only say that to you because, you know, as
20 a pro se litigant, you know, what I'm going to do is
21 make sure that, you know, you're not taken advantage
22 of or in some way -- I don't mean taken advantage of
23 by counsel here. I mean that you're not victimized by
24 the rules in a technical way to your detriment.

25 I want to make sure justice happens here, but

1 the rules still apply to you. In other words, I can't
2 make the rules go away. The Federal Rules of Civil
3 Procedure apply, and I'm going to need to hold you to
4 them.

5 What I'm also going to be doing, because you
6 don't have a lawyer, is making sure you're not -- for
7 lack of a better word -- tripped up by the rules in a
8 way that would be unjust.

9 DR. ISAACS: Okay.

10 THE COURT: But those rules do apply to you,
11 and I can't overlook them or not hold you to them.
12 Service of process is an example. Counsel here are
13 telling me, look, let's get on with it. We could
14 quibble over some of these issues, but we prefer to
15 move on. But there are issues that, frankly, they
16 could raise, if they were inclined, and I would have
17 to enforce them. All right?

18 DR. ISAACS: Yes. I appreciate that. I do
19 have a question. You stated that service was not
20 properly effected, and I'm just still a little bit
21 baffled by that.

22 Attorney Kaplan represented that he
23 represented all defendants. As early as this week --
24 I guess this evidence is not in the motion, but this
25 week Attorney Peahl e-mailed me blocking -- barring me

1 from contacting Dartmouth, as she stated, "When a
2 party to a lawsuit is represented by counsel,
3 correspondence from a pro se plaintiff that is related
4 to the lawsuit shall be directed to counsel".

5 So they have intimidated me basically with,
6 you know, a restraining order of sorts against
7 communicating with anyone other than their counsel,
8 and they said that -- and Kaplan said that he was
9 counsel for Dartmouth College. In fact, in the other
10 case, Connors versus Dartmouth, he is counsel for
11 Dartmouth College.

12 So I was essentially restrained from
13 communicating with anyone other than Kaplan. I was
14 following his orders and served him with a summons.
15 So I still, again, don't waive the fact that they've
16 misrepresented it and he agreed to move forward with
17 regard to the summons, but I firmly believe that
18 they've restrained me from communicating with their
19 clients in an attempt to delay this issue.

20 THE COURT: Dr. Isaacs, listen. Here is what
21 you need to understand now, okay? This is what I'm
22 trying to tell you.

23 DR. ISAACS: Okay.

24 THE COURT: If you had a lawyer right now, he
25 would understand that we're not here right now to

1 argue the lawsuit. We're here on a very, very
2 preliminary procedural issue, all right?

3 DR. ISAACS: Yes.

4 THE COURT: And you've asked me a question
5 here. See, that's one of the problems with
6 representing yourself. I can't give you legal advice.

7 DR. ISAACS: Okay.

8 THE COURT: I can't do it. It's not
9 permitted. It wouldn't be fair to the other side of
10 the case. If you need legal advice, you're going to
11 have to get it from a lawyer either by retaining one
12 or finding one that will give you free advice, but it
13 can't come from me. And it can't come from Attorney
14 Kaplan or Attorney Peahl. When you ask them, well,
15 why can't I do this or why can't I do that, they're
16 really not in a position to tell you that. Ethically
17 they're prohibited from giving you advice because they
18 represent a party in the case adverse to you.

19 MR. KAPLAN: Your Honor, can I add one thing,
20 though, that I think might be important here just so
21 this record is clear?

22 THE COURT: My next point was going to be
23 that I'm sure Attorneys Kaplan and Peahl now probably
24 want to say something on the record because of what
25 you said, so I'll let them do that now.

1 MR. KAPLAN: Well, actually -- I don't mean
2 to be redundant. I had filed pleadings that respond
3 to these allegations, and I'm satisfied that my record
4 is clear on those pleadings and I don't need to rebut
5 what has been said. I'm comfortable with what I've
6 already provided to you in the affidavits I signed.

7 I actually wanted to address a different
8 issue --

9 THE COURT: Okay.

10 MR. KAPLAN: -- that I wanted to be clear to
11 Dr. Isaacs as well.

12 There's a parallel issue going here. As you
13 are probably aware, at the end of the day what this
14 case involves -- aside from enumerable allegations, it
15 involves the fact that Dr. Isaacs was terminated from
16 his first year psychiatry residency, and he is
17 challenging that termination.

18 There's other things, obviously, as well, but
19 with regard to that termination Dr. Isaacs has been
20 notified by the director of graduate medical
21 education -- not me -- the director of graduate
22 medical education that he is entitled to pursue
23 certain challenges under the graduate medical
24 education program to that decision -- to the decision
25 to terminate him.

1 That hearing -- it's called a fair hearing
2 process. That hearing is not connected in any way to
3 this litigation. In fact, it is a process that
4 excludes counsel in its processing and in its
5 handling. And I want Dr. Isaacs to be clear and the
6 Court to be clear that insofar as he decides to
7 challenge that decision he can proceed, and he's not
8 barred from doing so, and in fact has received letters
9 from the graduate medical education program alerting
10 him to that fact. So I don't want there to be any
11 mistake about that, and I don't want him to think in
12 any way that he cannot pursue that remedy if he
13 chooses to do so, and just so the record is clear on
14 that point.

15 THE COURT: Understood.

16 MS. PEAHL: And if I might add something as
17 well, your Honor. I represent Dartmouth College.
18 Dartmouth College is not -- does not run the graduate
19 medical education program. They were not involved in
20 the decision to terminate Dr. Isaacs from his
21 residency program.

22 The letter that I sent to Dr. Isaacs was
23 quite clear, I think, but to the extent that it wasn't
24 clear, I'm hoping we can clear this up on this phone
25 conference.

1 Dr. Isaacs has continued to contact the
2 president of Dartmouth College, and now the individual
3 trustees of Dartmouth College, regarding an ethics
4 complaint, which as best I can understand is
5 essentially the same allegations that he's now added
6 to his amended complaint.

7 My letter instructed Dr. Isaacs that he needs
8 to communicate through me, as counsel for Dartmouth
9 College, with respect to the matters that are involved
10 in this litigation. That includes contacting the
11 individual trustees to complain about the same things
12 he's raised in his amended complaint.

13 That's what I communicated by letter to Dr.
14 Isaacs and then repeated in an e-mail, and he's chosen
15 to ignore both of those and continues to make contact
16 with individuals.

17 Nobody is restraining him from pursuing this
18 litigation, but he needs to communicate through me and
19 not be contacting the individuals, and I hope that
20 that message can be made clear through this phone
21 conference.

22 DR. ISAACS: Well, I just want to respond.
23 Again, this is what I believe is an obstruction of due
24 process. We learned about respondeat superior in the
25 first semester of law school. My lawsuit, the initial

1 complaint, was filed months before my termination that
2 Attorney Kaplan just referred to and it is not solely
3 limited to the GME, graduate medical education,
4 termination, which I was informed of only two days
5 ago -- or a week ago, two days before the World Bank
6 nomination.

7 I had filed HIPPA complaints and I had filed
8 breach of contract complaints that my ethics complaint
9 was never listened to, and my complaints of improper
10 activity under respondeat superior, which again is a
11 claim I am legally entitled to make to the employer of
12 the psychiatrists, and the employer of the
13 psychiatrists in this case receive their paychecks
14 from Dartmouth College.

15 So I am sure that Attorney Peahl was brought
16 into this case again to extricate defendant Kim and
17 Dartmouth College from a messy situation. So I just
18 have to object to what they said, that this is all
19 about a fair hearing process and a termination,
20 because it is much broader than that.

21 THE COURT: Well, I have a question. This is
22 directed to the attorneys on the call. If the doctor
23 here was represented by counsel, I would certainly
24 order him to have no further contact whatsoever with
25 any defendant in this lawsuit.

1 The problem is -- and I don't know the answer
2 to this question because I've never really thought it
3 through. I've never had to deal with it. I don't
4 know the nature and limits of my authority to prevent
5 him, as a pro se litigant, from contacting anybody.
6 The rules of professional conduct don't apply to him,
7 and I'm not sure if there are rules that do prevent
8 that. You may know better than me. There may be
9 authority for this proposition, but you said you
10 wanted to make it clear from the phone call, Attorney
11 Peahl. I think you've made your position clear, but
12 I'm not sure if I can put my imprimatur on that. Am I
13 wrong about that?

14 MS. PEAHL: Well, I guess I've always been
15 under the assumption -- and maybe I will need to
16 research this if it isn't as well-accepted as I
17 thought -- that a pro se litigant would be held to the
18 same requirement with regards to contact once
19 litigation has begun.

20 If there's counsel representing a defendant,
21 I think the defendant is entitled to say contact needs
22 to come through my counsel regarding all the matters
23 having to do with that litigation.

24 THE COURT: Well, sure, but what's the
25 basis -- I understand that, but what's the basis for

1 my authority to say that? That's a rule of
2 professional conduct. That's not a rule of court,
3 unless I'm overlooking it.

4 Look, it's certainly a reasonable assumption
5 for you to make -- don't get me wrong -- that you
6 would expect someone being a pro se litigant has to
7 conduct him or herself in the way counsel has to.
8 But, frankly, those rules of ethics, which I can use
9 as a tool, are not really available to me with respect
10 to Dr. Isaacs, as far as I know.

11 DR. ISAACS: Your Honor, also I appreciate
12 you raising this issue, and I think it's even more
13 important given that as an alumnus of Dartmouth
14 College I have other contractual relationships and
15 friendships basically with people at Dartmouth. And
16 moreover, I own a business corporation in New York
17 City that also has relationships with Dartmouth
18 College.

19 So Attorney Peahl's letter to me the other
20 day stating that I could not communicate with
21 Dartmouth, I mean that would be a clear violation of
22 enumerable constitutional rights so --

23 THE COURT: I doubt very much that that's the
24 case, sir, but regardless, let me just try to get this
25 resolved.

1 DR. ISAACS: Okay.

2 THE COURT: Attorney Peahl, it's not that I'm
3 disagreeing with your position. What I'm saying is I
4 don't know. Do you know, Attorney Kaplan?

5 MR. KAPLAN: I'll only add one thing. In the
6 situation -- and it hasn't been in federal court, so
7 I'll make that clear. But in several matters in state
8 court involving pro se litigants I have had judges
9 place what they considered to be -- what I would
10 consider to be restrictions, and what I think they
11 consider typically to be fair handling in the case,
12 and directed that the parties engage themselves in
13 such a way, including the pro se litigants, and have
14 made it clear that their failure to do so could result
15 in appropriate sanctions and appropriate issues with
16 regard to the case.

17 And I think in this particular matter -- and
18 I agree with Attorney Peahl, we may have to send you
19 something on it, but I think in this particular matter
20 the misunderstanding is that the only restriction, as
21 I understand it, that is being suggested is that
22 contacts and communications concerning the issue
23 surrounding his allegations -- nothing more, nothing
24 less -- what he has alleged in his complaint are the
25 issues that he needs to deal with through counsel.

1 I don't think anybody is trying to
2 preclude -- at least I'm not, and I don't think
3 Attorney Peahl is trying to preclude his ability to
4 contact any friends he may have or anything of the
5 like.

6 THE COURT: No, of course not.

7 MR. KAPLAN: You know, I think we're talking
8 about matters in which he alleged wrongdoing in his
9 complaint or amended complaint.

10 MS. PEAHL: And I'll confirm that I think it
11 was quite obvious from my letter that that's what was
12 being asked of him. My suggestion is either -- if we
13 can't come to some agreement in this conversation
14 about what contact the plaintiff can or can't make
15 with representatives, including the trustees of
16 Dartmouth College, involving the matters of this
17 litigation -- if we can't come to an understanding,
18 the plaintiff doesn't wish to agree to what I have
19 requested, then we'll file some sort of motion to seek
20 clarification of that.

21 My hope is that we can reach an understanding
22 about the extent to which he is being asked to refrain
23 from contacting those individuals. Nobody is asking
24 that he not have contact with the alumni office and
25 other alumni with whom he is friends or has other

1 relationships. That clearly was not the scope of my
2 request.

3 THE COURT: Look, I want to be clear, too.
4 My inclination would certainly be to order Dr. Isaacs
5 here not to have made contact that an attorney would
6 not be able to make in his shoes, because this
7 litigation should be conducted in an orderly way,
8 should proceed in an orderly fashion.

9 My guess is -- and maybe you're hearing
10 something in this conversation that I'm not, but I
11 don't see much hope for that kind of an agreement
12 today. I just don't see that happening.

13 DR. ISAACS: Yeah. And actually I already
14 filed my request for Dartmouth College to help me
15 and -- (inaudible). I actually don't have any idea
16 of -- (inaudible) -- the nature of that.

17 From my point of view, it's a moot issue
18 because I don't really have any intent at this time to
19 communicate about this issue with Dartmouth. I'm not
20 at the point where I'm seeking evidence that's been
21 withheld or destroyed. That's my next step.

22 THE COURT: All right. Can I have your
23 agreement then that you will not contact
24 administrators or trustees of Dartmouth College during
25 the pendency of this litigation?

1 DR. ISAACS: I guess I will agree to -- at
2 least through Attorney Kaplan, I would hope that
3 they're quicker in responding than the two months they
4 ignored me since January.

5 THE COURT: All right. Well, if you -- okay.
6 I'll accept your word on that. If you change your
7 position, please notify the Court. All right?

8 DR. ISAACS: Okay.

9 THE COURT: All right then. I am going
10 to rule that the motions -- all motions pending are
11 withdrawn as moot. All right? And that as of today,
12 30th of March, 2012, all defendants have been served
13 with the amended complaint. And under the federal
14 rules of civil procedure you've got 21 days to file a
15 responsive pleading. All right?

16 DR. ISAACS: 21 days from today, your Honor?

17 THE COURT: Yes, sir.

18 DR. ISAACS: Okay.

19 THE COURT: Is that satisfactory to
20 everybody?

21 MS. PEAHL: We're talking about responding to
22 the amended complaint, correct?

23 THE COURT: Yes.

24 DR. ISAACS: Well, wait a second. I don't
25 think the amended complaint -- the amended complaint

1 doesn't include -- does it include everybody, Kim
2 and -- yeah, I guess it does. Okay.

3 THE COURT: Yeah.

4 DR. ISAACS: Yeah, it does. Okay. So 21
5 days to respond to amended complaint. That's fine.

6 THE COURT: All right then.

7 DR. ISAACS: Your Honor, I'm going to -- just
8 as a -- thank you very much. And I guess then we'll
9 figure out what you want to do with what we'll be
10 going forward with. That's fine. Thank you.

11 THE COURT: All right then. I appreciate
12 everybody's participation.

13 DR. ISAACS: Thank you for allowing us to do
14 it this way, Judge. I really appreciate it.

15 THE COURT: Not at all. I'm happy to do it.

16 (Conclusion of hearing 12:05 p.m.)

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1 C E R T I F I C A T E

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4 I, Susan M. Bateman, do hereby certify that the
5 foregoing transcript is a true and accurate
6 transcription of the within proceedings, to the best of
7 my knowledge, skill, ability and belief.

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9 Submitted: 4-11-10

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SUSAN M. BATEMAN, LCR, RPR, CRR
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